REMARKS

This is intended as a full and complete response to the Office Action dated March 31, 2008, having an extended period for response set to expire on July 31, 2008. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-45 are pending in the application and remain pending following entry of this response. Applicants submit that the amendments do not introduce new matter.

Further, Applicants are not conceding in this application that those amended (or canceled) claims are not patentable over the art of record, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the claimed subject matter. Applicants respectfully reserve the right to pursue these (pre-amended and/or canceled claims) and other claims in one or more continuing patent applications.

Claim Rejections - 35 U.S.C. § 112

Claims 37-42 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended claims 37-42 to recite a "computer-program product for processing information in a communication system, comprising a computer readable medium having instructions stored thereon, the instructions being executable by one or more processors." Support for these amendments is provided at least by paragraph [0123] of the present application. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 102

Claims 1-5, 8-11, 16, 18-22, 24-26, 29-34, 37-40 and 43 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Akella et al.* (U.S. Publication 2003/0202492, hereinafter, "*Akella*").

Applicants respectfully traverse this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim."

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d

1566 (Fed. Cir. 1990).

In this case, *Akella* does not disclose "each and every element as set forth in the claim."

For example, *Akella* does not disclose a method for processing information in a communication

system that includes *selecting, for each of one or more user terminals, one of the subchannels to*

be used for transmitting control information from an access point to the respective user terminal,

based on one or more selection criteria, as recited in claim 1. In other words, as recited in the

claim, after partitioning a control channel into subchannels, a subchannel is selected to transmit

control information to a respective user terminal. By dedicating subchannels to particular users,

embodiments of the invention may accommodate different user terminals that may operate at

different data transmission rates.

With regards to the above limitation, the Examiner argues that it is disclosed by *Akella*,

paragraphs 54-56 (see *Office Action*, page 3). Claims 5, 8-11, 16, 18-22, 24-26, 29-34, 37-40

and 43 are rejected on the same basis. The cited paragraphs state:

> [0054] With reference now to FIG. 6, there is shown a diagram
> illustrating an algorithm 600 <u>for use in allocating channels to
> subchannels</u>, wherein a channel metric is used to determine the
> assignment of the channel, according to a preferred embodiment of
> the present invention. The algorithm 600 may be executed after a
> channel controller receives a request to allocate a new call or a new
> connection. Rather than looking up an allocation in a lookup table
> based on the channels that are active, such as described in FIG. 4,
> the channel controller may calculate a channel metric (block 605)
> which it will use to determine a
> channel assignment (block 610).

> [0055] A channel metric may be a quantitative measurement of the
> subchannels, such as <u>bandwidth utilization of the subchannels, the
> number of channels already assigned to the subchannels, the
> number of Walsh codes remaining for use in each subchannel, and
> so forth</u>. Note that some of the metrics may be calculated
> instantaneously, while some may need to be measured over a
> period of time.

> [0056] Based on one or more of the channel metrics, the channel
> controller makes a channel assignment (or it may choose to
> reassign some or all of the channels) (block 610). For example, <u>if a
> bandwidth utilization measurement shows that one subchannel is</u>

carrying more data than the other, then the channel controller may wish to assign the new call or new channel onto the subchannel with the lower channel utilization. Alternatively, a simple count of available Walsh codes may tell the channel controller to assign the new call or new channel to the subchannel with more available Walsh codes. If the metric shows that the subchannels are essentially equal, then the channel controller may select the subchannel assignment at random or it may use a priority based scheme that can be based on a number of factors, including the channel that it is attempting to allocate.

The "algorithm 600" described above is part of a "[s]ystem and method for adaptively allocating channels to subchannels and maintain balance on the subchannels" (*Akella*, Abstract). Thus, *Akella* does not teach that a subchannel is selected *to be used for transmitting control information from an access point to the respective user terminal*, as recited in the present claims.

Accordingly, Applicants respectfully submit that *Akella* does not disclose "each and every element" as set forth in the claim 1. Independent claims 9, 20, 25, 30, and 37 recite similar elements regarding segregating or partitioning a control channel into separate subchannels as claim 1 that are not taught in *Akella*. Accordingly, for at least these reasons, Applicants submit these claims, as well as their dependents are allowable over the art of record and respectfully request withdrawal of this rejection with respect to these claims.

Claims 34, 40, and 43 also recite elements that are not taught in *Akella*. For example, claim 34 recites "a receiver configured to receive information on one or more control subchannels each of which being operated at a specific data rate; and a decoder configured to decode the one or more control subchannels to obtain control information designated for a particular user terminal, *starting with a subchannel operated at a lowest data rate*, until at least one of a plurality of conditions is met.

Applicants respectfully submit that *Akella* does not teach any such decoding scheme that decodes subchannels (operated at specific data rates) starting at a lowest data rate. Claims 40 and 43 recite operations for such a decoding scheme.

Accordingly, for at least these reasons, Applicants respectfully submit claims 34, 40, and 43, as well as their dependents, are allowable over the art of record and respectfully request withdrawal of this rejection with respect to these claims.

Allowable Subject Matter

Claims 6-7, 12-15, 17, 23, 27-28, 35-36, 41-42 and 44-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants acknowledge and agree with the Examiner's recognition of the allowability of these claims. However, Applicants respectfully submit that, for at least the reasons given above, all of the independent claims are also allowable. Therefore, Applicants do not elect to re-write these claims in independent form at present.

Conclusion

Therefore, for at least the reasons presented above with respect to all of the pending claims subsequent to entry of this response, Applicants assert that all claims are patentably distinct from all of the art of record. All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Charge Statement: For this application, the Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account 17-0026.

Respectfully submitted,
QUALCOMM Incorporated
Customer Number: **23696**

Date: ____ July 30, 2008 _____   By: __/Ross L. Franks/_____
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